IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

FRIDAY, THE 5TH JANUARY 2007 / 5TH POUSHA, 1928

Crl.MC.No. 41 of 2007()

CP.4/1998 of JUDL. MAGISTRATE OF FIRST CLASS COURT, CHAVAKKAD
L.P. 206 OF 1998)

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PETITIONER: ACCUSED

RAFFIQUE, S/O.ELEDATH PUTHENVEETTIL
EANA HAJI, RESIDING AT THIRUVATHRA,
MANATHALA VILLAGE.

BY ADV. SRI.P.K.SAJEEV

RESPONDENTS: COMPLAINANT

STATE OF KERALA, REPRESENTED BY
CIRCLE INSPECTOR OF POLICE, CHAVAKKAD (CRIME NO.
154/1994 OF PAVARATTY POLICE STATION),
REPRESENTED BY PUBLIC PROSECUTOR, HIGH COURT OF
KERALA.

BY PUBLIC PROSECUTOR SRI. GIKKU JACOB

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 05/01/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

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Crl.M.C.No. 41 of 2007

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Dated this the 5th day of January, 2007

O R D E R

The petitioner is the second accused in Crime No. 154 of 1994 of Pavaratty police station. He, along with the co-accused, faced allegations, inter alia, under Sections 324 and 307 r/w. 149 I.P.C. The petitioner was not available to be proceeded with. All the co-accused had appeared before the learned Magistrate and the case was committed to the Court of Principal Asst. Sessions Judge. The Prosecutor had filed an application under Section 321 Cr.P.C. to withdraw from the prosecution. That petition was considered by the learned Judge. The learned Principal Asst. Sessions Judge had accepted the said request. The case was thus permitted to be withdrawn. However, since the case against the petitioner had not been committed to the Court of Sessions, the learned Principal Asst. Sessions Judge took the view that the petitioner/A2 is not entitled to be discharged.

2. The learned counsel for the petitioner submits that the prosecution against the petitioner is continuing to be pending before

the committal court unnecessarily. The defacto complainant has no grievance against the petitioner. In the petition submitted by him to the Prosecutor he has made it clear that he does not want the case against any of the accused to be proceeded with. In these circumstances it is submitted that continuation of the prosecution against the petitioner in L.P.N0. 206 of 1998 is unnecessary and results in needless vexation and hardship.

3. Notice was given to the learned Public Prosecutor. The learned Prosecutor submits that the Public Prosecutor before the court below had actually prayed for withdrawal of the case against all the accused and that the State has no objection in the proceedings against the petitioner/A2 being quashed by this Court invoking the powers under Section 482 r/w. 321 Cr.P.C.

4. Having considered all the relevant inputs, I am satisfied that the prayer is justified and can be accepted.

5. This Crl.M.C. is accordingly allowed. The proceedings against the petitioner pending before the learned J.F.C.M. Court, Chavakkad as L.P. 206 of 1998 (C.P. 4 of 1998 initially) is hereby quashed. I do however direct that proceedings against the accused/sureties pending under Section

446 Cr.P.C. shall continue and appropriate orders on merits shall be passed in such proceedings, if any pending before the learned Magistrate.

(R. BASANT)
Judge

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